



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,441	03/28/2001	Lalitha Agnihotri	US010107	2711

24737 7590 05/17/2005

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

LAYE, JADE O

ART UNIT	PAPER NUMBER
----------	--------------

2614

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/819,441

Applicant(s)

AGNIHOTRI ET AL.

Examiner

Jade O. Laye

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 30 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/28/01 & 9/3/02.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. The Examiner has considered the remaining reference, “U Unison” Ireland on the Web, pp. 1-2, downloaded on October 20, 2000 from <http://ptv.ucd.ie/c=about>, cited on page two of Applicant’s Information Disclosure Statement filed on March 28, 2001.

2. Applicant argues that Black does not disclose or suggest a system that displays first and alternate item selections and traverses the rejections of 1, 6, 8, 9, 14, 16, 19, and 20. The Examiner finds this argument unpersuasive because Black does in fact disclose displaying first and alternate “*item*” selections. At the outset, the Examiner would like to point out that Applicant’s “*item*” is very broad language and could denote any number of things.

Black teaches the system tracks the face of the user while using the computer system. (Col., 26, Ln. 63-67). It is inherent from this disclosure that the user is viewing a computer screen, therefore, a first “*item*” (i.e., whatever is displayed on screen) is being provided to said user. If the system subsequently detects predetermined behavior that effects the system software, the screen presentation (i.e., *item*) will be “altered.” (Col. 26, Ln. 66-67). In other words, the system will select an alternate item (i.e., the altered presentation) to display to the user. The Examiner interprets Black’s “altered” presentation to read upon Applicant’s broad “alternate *item*” limitation. Moreover, when Black’s system alters the screen presentation, it is also “selecting an alternate item” as recited in Applicant’s claim 1.

3. Applicant also argues that "...the Examiner seems to acknowledge Black's deficiency in this area ([NFR] Office Action, pg. 4)," referring to the alleged deficiency regarding the first and alternate item limitation. Applicant's Remarks, Pg. 3. However, Applicant takes the Examiner's statement out of context. For clarification, the Examiner did state "...Black...fails to disclose whether the system is capable of displaying first and alternate *media content selections*." NFR, Pg. 4. But, Applicant misinterprets this language as meaning Black fails to disclose displaying first and alternate *items*, which Black does teach as discussed above. This interpretation is not unreasonable because the Applicant agrees. As evidenced by the language in claim 2, there is a clear distinction between "item" and "media content selection." Thus, in the rejection of claim 2, the Examiner was addressing the fact that Black fails to specifically disclose providing *media content selections*, not items. However, Hendricks does disclose such a limitation, and was therefore used to apply the rejection.

4. Lastly, Applicant argues that "Hendricks and Black...do not disclose or suggest selecting an alternate item, if the predefined negative behavior is detected. This argument is unpersuasive. As discussed above, Black does disclose suggesting an alternative *item*, if predefined negative behavior is suggested.

In view of the Examiner's arguments, the remainder of Applicant's grounds of traverse are moot.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1, 6, 8, 9, 14, 16, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Black et al. (US Pat. No. 5,774,591).

As to claim 1, Black discloses a facial recognition system, which alters the presentation of the screen based upon an analysis of predefined human interactions. When a user is exposed to the system display (i.e., first item), a camera (system acquisition system) captures the viewer's image. This image is analyzed by the expression recognition system. Based upon this analysis, the system determines whether the screen presentation should be altered. (Col. 26, Ln. 50-67 thru Col. 27, Ln. 1-27 ; Col. 28, Ln. 11-16). Accordingly, Black et al anticipate each and every limitation of claim 1.

Claims 8, 9, 16, 19, and 20 correspond to claim 1 and thus, each is analyzed and rejected as previously discussed. The examiner notes that claim 8 attempts to make a distinction between "analyzing" and "monitoring." But, any system (such as disclosed by Black) capable of analyzing information must also monitor that same information in order to store and analyze it.

The examiner also notes that claim 16 adds additional limitations directed to a memory device and processor. It is inherent that Black's system contains a memory device (for storing predefined human interactions) and processor (specifically disclosed as image acquisition system and expression recognition system).

As to claim 6, Black further discloses his system is capable of analyzing facial expressions of a user. (Col. 26, Ln. 50-67). Accordingly, Black et al anticipate each and every limitation of claim 6.

Claim 14 corresponds to claim 6 and is analyzed and rejected as previously discussed.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 2, 3, 7, 10, 11, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black et al in view of Hendricks et al. (US Pat. No. 5,798,785).

Claim 2 recites the method of claim 1, wherein said first and alternate items are media content selections. As discussed above, Black contains all limitations of claim 1 but fails to disclose whether the system is capable of displaying first and alternate media content selections. However, within the same field of endeavor, Hendricks discloses a recommending system capable of suggesting media content (i.e., suggesting programs based upon genre/category, actors, etc.). (Col. 3, Ln. 5-20). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to combine the system of Black with the system of Hendricks in order to provide a system capable of recommending alternate media content selections based upon a user's dissatisfaction with the original media content.

Claim 10 corresponds to claim 2 and therefore, is analyzed and rejected as previously discussed.

Claim 3 recites the method of claim 1, wherein said alternate item is selected based on viewing preferences of said user. As discussed above, Black contains all limitations of claim 1, but fails to disclose the limitation of claim 3. However, within the same field of endeavor, Hendricks further discloses his system is capable of recommending programs based upon the viewing preferences of the user. (Col. 3, Ln. 5-20). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to combine the system of Black with the system of Hendricks in order to provide a system capable of displaying an alternate item based upon the viewing preferences of a user.

Claim 11 corresponds to claim 3 and is analyzed and rejected as previously discussed.

Claim 7 recites the method of claim 1, wherein said selecting step is performed by a program content recommender. As discussed in paragraph 1, Black contains all limitations of claim 1, but fails to disclose the limitations of claim 7. However, within the same field of endeavor, Hendricks discloses a content recommender. (Col. 2, Ln. 38-47). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to combine the systems of Black and Hendricks in order to provide a system capable of recommending content.

Claim 15 corresponds to claim 7 and is analyzed and rejected as previously discussed.

7. Claims 4, 5, 12, 13, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black et al in view of Chino et al. (US Pat. No. 6,118,888).

Claim 4 recites the method of claim 1, wherein said predefined negative behavior includes auditory commands. As discussed above under paragraph 1, Black contains all

limitations of claim 1, but fails to specifically disclose the limitations recited in claim 4. However, within the same field of endeavor, Chino discloses a system capable of interacting with a user via audio, character, and image information. (Abstract). More specifically, the system is capable of reacting to a user's speech. (Col. 1, Ln. 11-61). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to combine the systems of Black and Chino in order to provide a system capable of reacting to a user's verbal dissatisfaction with the present display.

Claim 12 corresponds to claim 4 and is analyzed and rejected as previously discussed.

Claim 5 recites the method of claim 1, wherein said predefined negative behavior includes gestural commands. As discussed under paragraph 1, Black contains all limitations of claim 1, and further discloses the system is capable of analyzing a user's head gestures. (Col. 1, Ln. 15-38). However, Chino more broadly discloses his system is capable of analyzing not only head gestures, but bodily gestures as well. (Col. 1. Ln. 11-61). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to combine the systems of Black and Chino in order to provide a system capable of displaying an alternate item based upon a user's gesture indicating his or her dissatisfaction with the present item displayed.

Claim 13 corresponds to claim 5 and is analyzed and rejected as previously discussed.

Claim 17 recites a system for selecting an item for a user, comprising:

- a. an audio and video device focused on a user;
- b. a memory for storing computer readable code and said viewer profile; and
- c. a processor operatively coupled to said memory, said processor configured to:
(perform limitations recited in claim 8)

As discussed above, Black contains all limitations of claim 8 and the limitation of element “b”, so those will not be addressed here. As for element “a”, Black discloses his system is capable of tracking/analyzing/monitoring a user’s behavior via the use of a camera (i.e., video device), or image acquisition system. (Col. Ln. 26, Ln. 56-61). But, Black fails to disclose whether his system can be used in conjunction with an audio device. However, within the same field of endeavor, Chino discloses his system is capable of reacting to a user’s speech; therefore it is inherent that an audio device is present within the system. (Col. 1, Ln. 11-61). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of applicant’s invention to combine the systems of Black and Chino in order to provide a system capable of reacting to a user’s behavior via the use of audio and video inputs.

Claim 18 recites the system of claim 17, wherein said processor is further configured to define a plurality of predefined negative behavior suggesting that said user does not like said first item. As discussed above, the combined teachings of Black and Chino contain all limitations of claim 17, and Black further discloses his system is capable of analyzing predefined negative behaviors (i.e., predefined human interactions). (Col. 26, Ln. 61-63). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of applicant’s invention to further modify the combined teachings of Black and Chino to also provide a system capable of analyzing predefined negative behaviors.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner's Initial's JL
May 2, 2005.


NGOC-YEN VU
PRIMARY EXAMINER